



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

IN THE CORPORATION COURT OF THE CITY OF
NEWPORT NEWS, VIRGINIA

Hon. T. J. Barham, Judge.

June, 1904.

GENERAL ELECTRIC COMPANY V. CONSUMERS' LIGHT, HEAT & ICE
COMPANY.*

SERVICE OF NOTICE by counsel for plaintiff upheld.—Upon a notice of motion for judgment under section 3211 of the Code, a return "W. R. P. being first duly sworn, did depose and say that on May 28, 1904, he delivered a true copy of the within notice and account to W., president of the Consumers' Light, Heat & Ice Co., a corporation, in the city of Norfolk, Virginia, in which said city said W. resides, and has his place of business, and that he is not interested in this controversy," is sufficient, notwithstanding the fact that W. R. P. is plaintiff's attorney.

Batchelor & Perkins, for the plaintiff.

Louis C. Phillips, for the defendant.

This was a notice of motion for judgment; case was heard upon a special appearance and motion to quash the return upon the ground that plaintiff's attorney, being interested in the case, was not a competent person to serve the notice. Defendant's counsel contended:

First, that personal interest in a suit will disqualify any person from serving process in that suit, and to this point cited *Andrews v. Fitzpatrick*, 89 Va. 438. In this case it was said that a sheriff, being personally interested in the suit, was disqualified from serving the process. In *Carter v. Harris*, 4 Rand. 199, it was held that personal interest in an execution would disqualify a sheriff from levying and selling under it, even though that interest were as remote as that of an assignor of the execution.

Second, that a plaintiff's attorney is interested in the suit. To this point, defendant's attorney cited *Rutherford v. Moody*, 59 Ark. 328, in which it was held that process in a suit could not be served by one interested therein "as attorney or otherwise," and also cited *Bowers v. Bowers*, 19 Gratt. 697, in which it is held that an attorney in a case, though not pecuniarily interested therein, because

* Reported by George C. Gregory.

he was acting for a firm of which he was only a nominal partner, could not execute a decree for an account as a commissioner in chancery.

The plaintiff's counsel contended that the interest which would disqualify a person from serving process was a pecuniary interest, citing 19 Am. and Eng. Encyc. Pl. and Pr., 580, where it it said: "It is a general rule of almost universal application that no one who is a party to the litigation can make a valid service of process therein;" wherein is cited also case of *Whitewater First National Bank v. Istenson*, 68 Minn. 28, in which it was held that, where the statute authorized summons to be served by a sheriff or by any person not a party to the action, plaintiff's attorney could serve the summons. Plaintiff's counsel also cited *Furst v. Banks*, 101 Va. 208, to the effect that the same formalities were not required in the service of a notice as are required for the beginning of a suit.

The court held that the plaintiff's attorney was competent to serve the notice, drawing a distinction between the judicial act performed in the case of *Bowers v. Bowers*, *supra*, and the ministerial act performed in the case at bar.